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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/270,673	03/16/1999	TAKAHISA UEDA		2804

7590 02/08/2002

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EXAMINER

MIGGINS, MICHAEL C

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 02/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/270,673

Applicant(s)

UEDA ET AL.

Examiner

Michael C. Miggins

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 January 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 18 January 2002. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.  
2. ☐ The proposed amendment(s) will not be entered because:  
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ they raise the issue of new matter (see Note below);  
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_  
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.  
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.

Claim(s) objected to: none.

Claim(s) rejected: 22-42.

Claim(s) withdrawn from consideration: none.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.  
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_  
10. ☒ Other: see attachment.

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### **ANSWERS TO APPLICANT'S ARGUMENTS**

Applicant's arguments filed 1/18/02 have been carefully considered but are deemed unpersuasive.

Applicant has argued that there is simply no way of knowing whether the fibers disclosed in Hartel et al. are long or short. Applicant's argument may have merit. However, Braus et al. clearly disclose short fibers (see column 4, lines 3-15).

Applicant has argued that the limitation, "...20 or more wt% of short fibers...are oriented in a direction along which the magnitude of a load is large..." is not taught by the references. However, Hartel et al. specifically teach that all of the fibers are oriented (see column 3, lines 29-36). Moreover, this limitation was addressed in paper #5, page 3, paragraph 4 and paper #9, pages 3-4, paragraphs 6-10. While applicant may argue that Hartel et al. do not teach a specific weight percentage of the fibers with the specific orientations recited in applicant's claims, such a weight percentage is mere optimization of a result effective variable *In re Aller*, 105 USPQ 233, *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980), *In re Hoeschele*, 406 F.2d 1403, 160 USPQ 809 (CCPA 1969) and *In re Antonie*, 559 F.2d 618, 195 USPQ 6 (CCPA 1977).

Applicant has also argued that the fact that both Braus et al. and Hartel et al. are directed toward aramid fibers in matrix materials, same field of endeavor, cannot stand as the basis for rejection. Applicant's argument has some merit. However, the basis for the rejection is that the combined teachings of Braus et al. and Hartel et al. obviate

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applicant's invention as claimed and that one of ordinary skill in the art would have been motivated to combine the references in order to provide improved load strength.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Miggins whose telephone number is (703) 305-0915. The examiner can normally be reached on Monday-Friday; 1:30-10:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pyon Harold can be reached on (703) 308-4251. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7718 for regular communications and (703) 305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

MCM *ACM*  
February 5, 2002

*Harold Pyon*  
HAROLD PYON  
SUPERVISORY PATENT EXAMINER  
*1772* *2/7/02*